

UNITED STATES OF AMERICA	*	CRIMINAL DOCKET NO: 11-087
v.	*	SECTION: “K”
CLIFTON HOLMES, JR.	*	

FACTUAL BASIS

On April 23, 2010 in the Eastern District of Louisiana, within the city of Amite, Louisiana, state probation and parole specialist Christie Schexnayder was conducting a routine visit with state probationer, **CLIFTON HOLMES, JR.** This visit was to facilitate **HOLMES'** request for a travel permit outside of the probation area. **HOLMES** arrived at

the probation office with the truck he exclusively operates for personal and business use. As part of Schexnayder's probation duties, she and other probation officers requested and obtained **HOLMES** permission to search his vehicle based upon the conditions of **HOLMES'** probation.¹

CLIFTON HOLMES JR. KNOWINGLY POSSESSED A FIREARM AND AMMUNITION

During the search probation officers Andre Cialona, John Rohner, Chad Terral located in an unlocked tool box in **HOLMES'** truck, a loaded Sturm, Ruger and Company, model SR9, .9mm caliber pistol, bearing a serial number of 330-00730, Cascade Cartridge Incorporated, .22 caliber long rifle bullets, Winchester Western, 12 gauge shotgun shells and seven (7) large knives. These items (firearm, ammunition and knives) were knowingly and intentionally possessed by **CLIFTON HOLMES, JR.** which he readily admits as part of this factual basis that he had actual and constructive possession of said vehicle and the items contained therein. Prior to the discovery of the loaded Sturm, Ruger and Company, model SR9, .9mm caliber pistol, bearing a serial number of 330-00730, Cascade Cartridge Incorporated, .22 caliber long rifle bullets, Winchester Western, 12 gauge shotgun shells and seven (7) large knives, **CLIFTON HOLMES, JR.** was prohibited by law from possessing firearms and ammunition.

¹ Condition 13: "Agree to searches of his person, his property, his place of residence, his vehicle, or his personal effects, or any or all of them, at any time, by the probation officer or the parole officer assigned to him, with or without a warrant of arrest or with or without a search warrant, when the probation officer or the parole officer has reasonable suspicion to believe that the person who is on probation is engaged in or has been engaged in criminal activity."

PRIOR TO THE POSSESSION OF THE FIREARM AND AMMUNITION
CLIFTON HOLMES, JR. HAD A PRIOR CONVICTION FOR A CRIME
PUNISHABLE BY IMPRISONMENT EXCEEDING ONE YEAR

Pursuant to Federal Rules of Evidence 803(8) and 902(4) the Government would produce court documents at trial from the Twenty-First Judicial District Court for the Parish of St. Helena in the State of Louisiana that on or about February 5, 2010, **HOLMES** pleaded guilty to Aggravated Criminal Damage in case number 15816, in violation of La.R.S. 14:55. As a result of **HOLMES** guilty plea, he was sentenced to five (5) years hard labor at the Louisiana Department of Corrections. The five (5) year sentence was suspended and **HOLMES** was placed on five (5) years of probation. Thus, **HOLMES** was convicted of a crime punishable by imprisonment for a term exceeding one year prior to the possession of a loaded Sturm, Ruger and Company, model SR9, .9mm caliber pistol, bearing a serial number of 330-00730, Cascade Cartridge Incorporated, .22 caliber long rifle bullets, Winchester Western, 12 gauge shotgun shells and seven (7) large knives.

THE FIREARM POSSESSED BY CLIFTON HOLMES, JR. TRAVELED IN OR
AFFECTED INTERSTATE COMMERCE

Alcohol, Tobacco, Firearms and Explosives Special Agent Cheryl D. Harrell examined the Sturm, Ruger and Company, model SR9, .9mm caliber pistol, bearing a serial number of 330-00730 and Special Agent Mike Eberhardt examined the Cascade Cartridge Incorporated, .22 caliber long rifle bullets that **HOLMES** possessed on April 23, 2010. Harrell and Eberhardt are persons who have experience and knowledge in determining the origin of firearms and ammunition. Harrell's examination of the Sturm, Ruger and

Company, model SR9, .9mm caliber pistol, bearing a serial number of 330-00730 determined based upon her experience and knowledge that the firearm was not manufactured in the State of Louisiana. Eberhardt examined the Cascade Cartridge Incorporated, .22 caliber long rifle bullets and determined based upon his experience and knowledge that the ammunition was not manufactured in State of Louisiana. The two agents would testify that because the firearm and ammunition that **HOLMES** possessed were not manufactured in the state of Louisiana the firearm and ammunition had to have traveled in or affected interstate commerce by virtue of its presence in Louisiana on April 23, 2010.

Moreover, Harrell's opinion was inclusive of the fact that the Sturm, Ruger and Company, model SR9, .9mm caliber pistol, bearing a serial number of 330-00730 met the federal statutory definition of a firearm as defined in 18 U.S.C. § 921(a)(3).

CLIFTON HOLMES, JR, THE UNDERSIGNED DEFENDANT HEREBY AGREES BY SIGNING THIS FACTUAL BASIS THAT THE FACTS CONTAINED THEREIN ARE TRUE, AND THAT IN FACT HE UNLAWFULLY AND KNOWINGLY POSSESSED A STURM, RUGER AND COMPANY, MODEL SR9, .9MM CALIBER PISTOL, BEARING A SERIAL NUMBER OF 330-00730 AND HE UNLAWFULLY AND KNOWINGLY POSSESSED THE CASCADE CARTRIDGE INCORPORATED, .22 CALIBER LONG RIFLE BULLETS, BOTH ITEMS, HAD BEEN SHIPPED AND TRANSPORTED IN INTERSTATE COMMERCE AND SAID POSSESSION OF THE AFOREMENTIONED FIREARM AND BULLETS OCCURRED AFTER HOLMES PLEADED GUILTY TO AGGRAVATED CRIMINAL DAMAGE IN CASE NUMBER

**15816, IN THE TWENTY-FIRST JUDICIAL DISTRICT COURT FOR THE PARISH
OF ST. HELENA IN THE STATE OF LOUISIANA ON OR ABOUT FEBRUARY 5,
2010 THAT WAS IN VIOLATION OF LA.R.S. 14:55 WHICH IS A CRIME
PUNISHABLE BY IMPRISONMENT FOR A TERM EXCEEDING ONE YEAR.**

APPROVED AND ACCEPTED:

CLIFTON HOLMES, JR. Date
Defendant

CYNTHIA CIMINO Date
Attorney for Defendant

ABRAM McGULL II Date
Attorney for the United States of America